

wherein during deployment said arms are free to rotate in a first plane that is coplanar with both arms and the axle, they can rotate about a center of rotation established by the axle, and they can be moved generally towards said chock front and rear as said axle slides within said guide slots; and,

locking links projecting from each arm towards the other arm that lock together substantially perpendicularly to said longitudinal axis once the stubs are properly placed about a wheel, thereby locking said wheel lock.

D. REMARKS

This amendment has been timely filed within the time limits for reply under the Certificate of Mailing procedure established by 37 C.F.R. § 1.8. Care has been taken to comply with the latest amendment form requirements resulting from changes to 37 C.F.R. 1.121, March, 2003.

In the Office Action the claims were rejected over 35 USC § 112, and the wording found objectionable has been removed from the applicable claims by this amendment.

The claims were also rejected under 35 USC § 103 in view of patent JP407304432A, by Odagiri, entitled "Wheel Stopper Device for Automobiles," and patent JP411124017A, by Hasegwa, entitled "Wheel Stopper for Automobiles". The amended claims presented above distinguish from these references, and all other known references or combinations thereof, in several important areas.

Regarding the section 103 rejections set forth in the Office Action, it is well-established that an invention is not considered to be obvious unless the relevant or analogous prior art includes some suggestion as to the necessity of applying the technology in question to solve the problem addressed by the inventor. According to the landmark case of Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), obviousness is to be analyzed by considering (1) the scope and content of the prior art, (2) the differences between the claimed invention and the prior art, and (3) the level of ordinary skill in the art. In applying the Deere criteria, recognized tenets of patent law must be employed.

For example, it is well known that the claimed invention must be considered as a whole. And, though the differences between the claimed invention and the prior art may seem slight, the differences in the claimed invention may be the key to advancement of the art. Jones v. Hardy, 220 USPQ 1021, 1024 (F. Cir. 1984). The prior art references must be

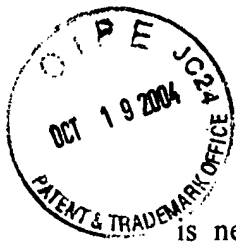
considered as a whole and they must suggest the desirability of making the claimed combination if they are to be used as a grounds for an obviousness rejection. Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co., 221 USPQ 481, 488 (Fed. Cir. 1984).

The prior art contains many wheel locks. Odagiri patent no. JP0734432A shows a design primarily adapted for large wheels. This unit has to be pushed into place around the wheel to be locked. The “chock” includes two U-shaped arms that move up and down in front and back of a tire. They can pivot to positions proximate the circumference of a wheel to be locked. Because of the small amount of room between the tire and fender of an automobile this device would be difficult to use. A locking bar (#12 & 13) secures the unit. It consists of a loop (#18) that is inserted into series of slots (#16) then locked with a padlock (much like a hasp for a barn door). Only one slot is used, and the padlock secures the unit.

The locking elements 11, 12 are oriented parallel to the wheel, or *parallel* to the longitudinal axis. There is no analogous *perpendicular* locking link orientation that enables several of applicant’s advantages. More importantly, there are no analogous slots enabling the axle holding these pivoted arms to slide in a direction parallel with or coincident with the longitudinal axis. This device does not have analogous locking arms that engage the wheel, and which are locked by links extending transversely across the wheel to help prevent it from rolling. The freedom of movement of the locking arms as claimed by applicant is unique and non-obvious.

The Hasegawa “wheel stopper”, patent no. JP411124017A, is for bracing an auto during a disaster such as earthquake. It is not an analogous anti-theft device. The arms, while pivoted to move in an arc defining a single plane, are not connected to an analogous slidable axle captivated between analogous follower slots. This device can easily be removed by simply removing the air from the tire. Applicant’s arms grab the inner area of the wheel. No matter what happens to the tire it cannot be removed.

Concluding, the differences in the claimed combination presented by applicant relate primarily to the locking means which is perpendicular to the axis of the wheel, and the locking arms which are pivotally connected to an internal, rotatable axle that is axially captivated within spaced-apart guide slots. The axle and the arms or fork pivoted thereto can all be slidably moved to more readily fit the lock to a given tire. The latter freedom of motion expressed in the claims



is neither shown nor suggested by the prior art references, or any reasonable combination thereof.

Accordingly it is believed that the amended claims conform adequately to 35 U. S. C. §112, and that they present novel and non-obvious subject matter.

If any issues remain to be resolved, Applicant's counsel would prefer to resolve them either via email or through a mutually convenient telephone conference. Concluding, this case should be in condition for allowance, and a timely Notice of Allowance is respectfully solicited.

Respectfully submitted,

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CERTIFICATE OF MAILING (37 C.F.R. §1.8)

The undersigned attorney hereby certifies that the foregoing Amendment and all appurtenant enclosures, if any, is/are being deposited with the United States postal service, first class postage pre-paid, in an envelope addressed to Commissioner for Patents, MAIL STOP: NON-FEE AMENDMENT, P. O. Box 1450, Alexandria VA 22313-1450 on Thursday, October 14, 2004.

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